



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE \_\_\_\_\_  
BILL 32 (2016)

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**A BILL FOR AN ORDINANCE**

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RELATING TO TRANSPORTATION NETWORK COMPANIES.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and Purpose. The Council of the City and County of Honolulu finds that the provision of public transportation in Honolulu, as in other jurisdictions across our nation, is evolving, as evidenced by the growth and popularity of ride-sharing services that are accessed through a digital business model provided by companies known as transportation network companies. The Council further finds that certain publicized experiences that have been associated with rides arranged via transportation network companies demonstrate that there exists a need to ensure the safety, reliability and cost-effectiveness of rides provided by transportation network company drivers. However, the Council recognizes the convenience and benefits provided to the traveling public by transportation network company drivers, so it wishes to balance the need to regulate these drivers with a desire to preserve and enhance access to this important new transportation option for residents and visitors alike.

The purpose of this ordinance is to address the regulation of transportation network company services and drivers.

SECTION 2. Chapter 12, Revised Ordinances of Honolulu 1990, is amended by adding a new article to be appropriately designated by the revisor of ordinances and to read as follows:

**"Article \_\_. Transportation Network Company Services and Drivers**

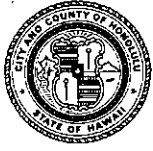
**Sec. 12-\_\_1 Definitions.**

As used in this article:

"Department" means the department of customer services.

"Digital network" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

"Director" means the director of customer services of the city, or the director's duly authorized subordinates.



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"Personal vehicle" means a motor vehicle that is used by a transportation network company driver and is:

- (1) Owned, leased, or otherwise authorized for use by the transportation network company driver; and
- (2) Not a taxicab or a motor vehicle operated by a motor carrier under a certificate or permit issued by the State Public Utilities Commission pursuant to HRS Chapter 271.

"Prearranged ride" means the provision of transportation by a driver to a rider, beginning when a driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the driver transports a requesting rider, and ending when the last requesting rider departs from the personal vehicle. A prearranged ride does not include transportation provided using a taxicab, limousine, or other for-hire vehicle.

"Road taxi stand" means a space set aside on a public street or city-controlled facility by the council for the exclusive use of taxicabs.

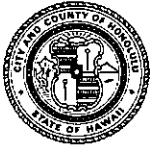
"Surge pricing" means the increase in fare rates charged by a transportation network company during times of high demand.

"Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that operates in the city and uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides.

"Transportation network company driver" or "driver" means an individual who:

- (1) Receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and
- (2) Uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in return for compensation or payment of a fee.

"Transportation network company rider" or "rider" means an individual or persons who use a transportation network company's digital network to connect with a



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transportation network company driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

**Sec. 12-\_\_\_.2 Director of customer services—Authority.**

- (a) Issuance, Denial, Suspension or Revocation of Transportation Network Company Driver's Certificate. The director is authorized to issue and renew transportation network company driver's certificates pursuant to this article. The director is authorized to deny initial issuance or renewal of or suspend or revoke any transportation network company driver's certificate if an applicant cannot meet the requirements set forth in Section 12-\_\_\_.3(c) and (d) or a driver violates any of the provisions contained in this article. Any applicant or driver must be afforded an opportunity for a hearing before the director or a hearing officer appointed by the director pursuant to HRS Chapter 91 if a certificate is denied, suspended, or revoked by the director.
- (b) Rule-Making Powers. The director is authorized to adopt rules that are consistent with this article, having the force and effect of law, as provided for in HRS Chapter 91, in the administration and enforcement of this article.

**Sec. 12-\_\_\_.3 Transportation network company driver's certificate.**

- (a) No person shall act as a transportation network company driver in the city without a valid transportation network company driver's certificate issued by the director pursuant to this article.
- (b) The director shall collect a fee of \$25.00 for the issuance of each original and \$10.00 for each duplicate transportation network company driver's certificate.
- (c) Subject to subsection (d), no transportation network company driver's certificate may be issued to any person unless such person has:
  - (1) A valid State of Hawaii driver's license;
  - (2) One year of driving experience;
  - (3) Satisfactorily passed an examination showing:
    - (A) A sufficient understanding of the traffic laws and ordinances, and this article;



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- (B) A sufficient understanding of the locations of streets, roads, highways and significant landmarks within the City and County of Honolulu; and
  - (C) A sufficient understanding of the English language;
  - (4) Complied with the standards promulgated by the director relating to moral character and physical fitness of the applicant based on prior records or certified documents relative thereto;
  - (5) Received a transportation network company driver's certificate number from the department;
  - (6) Submitted proof of registration for the motor vehicle used to provide prearranged rides in the name of the driver, or proof of authorization from the registered owner for the driver to operate the motor vehicle as a transportation network company driver;
  - (7) Submitted proof of a current vehicle safety inspection for the motor vehicle used to provide prearranged rides in the name of the driver or registered owner of the motor vehicle;
  - (8) Submitted proof of compliance with the insurance requirements in Section 12-\_\_\_.5;
  - (9) Submitted a current traffic violations bureau certified abstract for the person;
  - (10) Submitted proof of a valid general excise tax license issued in the State of Hawaii; and
  - (11) Submitted proof, in the form of original documentation, of a national background check consistent with the provisions in Section 12-\_\_\_.4.
- (d) No transportation network company driver's certificate may be issued to or renewed for any person who:
- (1) Has been found to have committed more than three traffic infractions, as defined in HRS Section 291D-2, in the prior three-year period, other than



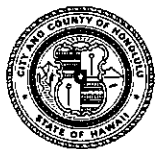
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traffic infractions involving parking, standing, or equipment, and offenses committed as a pedestrian;

- (2) Has been convicted once in the prior three-year period for the offense of resisting an order to stop a motor vehicle, reckless driving, excessive speeding, racing on a highway, or driving with a suspended or revoked driver license;
  - (3) Has been convicted in the prior seven-year period of driving under the influence of an intoxicant, including drugs or alcohol;
  - (4) Has been convicted in the prior seven-year period of fraud, any sexual offense, any crime involving property damage, theft, stalking, acts of violence, or acts of terrorism, use of a motor vehicle to commit any felony, or any other offense enumerated in subsection (g); or
  - (5) Is a match in the National Sex Offender Registry database.
- (e) Every transportation network company driver's certificate issued under this section will expire two years after the issuance thereof, unless it has previously been revoked, and may be renewed by the director on or before its expiration date upon the applicant's meeting the standards set in subsections (c) and (d). Provided, however, that every transportation network company driver need not demonstrate compliance with the requirements of paragraphs (c)(3)(A), (c)(3)(B), and (c)(3)(C). The director may accept an application for certificate renewal not more than six months prior to the date of expiration. If, however, a renewal is not applied for on or before the 90th day following the expiration date of the certificate, the applicant shall be treated as an applicant for a new certificate.
- (f) Whenever the driver's license of any transportation network company driver is suspended or revoked, the director shall require that the certificate be surrendered to and be retained by the director. At the end of the period of suspension, the certificate so surrendered will be returned to the licensee unless the certificate has expired.
- (g) The director may suspend a transportation network company driver's certificate if the holder of the certificate is convicted of any of the following:
- (1) Offenses against the person or property of another, or of the public order, including:



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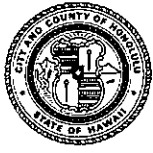
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- (A) Assault,
  - (B) Kidnapping,
  - (C) Manslaughter,
  - (D) Murder,
  - (E) Negligent homicide,
  - (F) Reckless endangering,
  - (G) Robbery,
  - (H) Theft in the first or second degree,
  - (I) Harassment by stalking,
  - (J) Acts of terrorism,
  - (K) Cybercrimes, or
  - (L) Identity theft.
- (2) Offenses that are sex related, including:
- (A) Displaying indecent matter,
  - (B) Indecent exposure,
  - (C) Open lewdness,
  - (D) Promoting pornography,
  - (E) Prostitution or promoting prostitution,
  - (F) Rape, or
  - (G) Sexual abuse.
- (3) Offenses that are drug related, including:



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- (A) Promoting a dangerous drug,
  - (B) Promoting a detrimental drug,
  - (C) Promoting a harmful drug, or
  - (D) Promoting an intoxicating compound;
- (4) Traffic violations while operating a moving vehicle, including:
- (A) Driving under the influence of an intoxicant, including drugs or liquor,
  - (B) Heedless and careless driving while operating a vehicle, or
  - (C) Excessive speeding or racing on a highway.

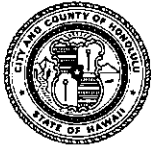
**Sec. 12-\_\_4 Criminal background check required.**

Prior to issuing or renewing a transportation network company driver's certificate, the driver shall submit, in the form of original documentation, a national criminal background check going back seven years, that must include:

- (a) Multi-state/Multi-Jurisdiction Criminal Locator or other similar commercial or government nationwide database with validation (primary source search); and
- (b) National Sex Offender Registry database.

**Sec. 12-\_\_5 Insurance requirements.**

- (a) A transportation network company driver or transportation network company on the driver's behalf shall maintain a primary motor vehicle insurance policy that meets the requirements of this section.
- (b) The primary motor vehicle insurance required under this section must recognize that the driver is a transportation network company driver or otherwise uses a vehicle to transport riders for compensation and covers the driver:
  - (1) While the driver is logged on to the transportation network company's digital network; or



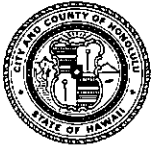
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- (2) While the driver is engaged in a prearranged ride.
- (c) The primary motor vehicle insurance required under this section must include:
  - (1) Primary liability coverage of not less than \$100,000 per person, with an aggregate limit of \$200,000 per accident, for all damages arising out of accidental harm sustained as a result of any one accident and arising out of ownership, maintenance, use, loading, or unloading of a motor vehicle;
  - (2) Primary liability coverage of not less than \$50,000 for all damages arising out of damage to or destruction of property including motor vehicles and including the loss of use thereof, but not including property owned by, being transported by, or in the charge of the insured, as a result of any one accident arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle;
  - (3) Uninsured and underinsured motorist coverage for the transportation network company driver and passengers that must be equal to the primary liability limits specified in paragraphs (1) and (2);
  - (4) Personal injury protection coverage in an amount that meets the requirements of HRS Section 431:10C-103.5 and that is equal to or greater than the coverage limits for the personal motor vehicle insurance maintained by the vehicle's owner; and
  - (5) Collision and comprehensive coverage limits for the transportation network company driver's vehicle that must be equal to or greater than the coverage limits for the personal motor vehicle insurance maintained by the vehicle's owner.
- (d) The coverage requirements of subsection (c) may be satisfied by any of the following:
  - (1) Motor vehicle insurance maintained by the transportation network company driver;
  - (2) Motor vehicle insurance maintained by the transportation network company; or
  - (3) A combination of subdivisions (1) and (2).





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- (e) If insurance maintained by the driver has lapsed or does not provide the required coverage, insurance maintained by a transportation network company must provide the coverage required by this section beginning with the first dollar of a claim and include the duty to defend such claim and indemnify the insured.
- (f) A transportation network company driver of a transportation network company shall carry proof of insurance coverage as required by this section within the vehicle at all times when the vehicle is being used while the driver is logged on to the transportation network company's digital network or is engaged in a prearranged ride. In the event of an accident, a transportation network company driver shall provide this insurance coverage information to any other party involved in the accident, and to a police officer, upon request. The owner of the vehicle may display the motor vehicle insurance identification card or the proof of insurance card in electronic format on a mobile electronic device, as that term is defined in HRS Section 291C-137.

**Sec. 12-\_\_\_.6 Fare calculation.**

On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; provided that, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method or system within the software application service. The fare calculation method or system used to measure travel distances and calculate fares must be capable of being independently and objectively certified as valid, accurate and equitable. The transportation network company shall also provide riders with the applicable rates being charged and the option to receive an estimated fare before the rider enters the transportation network company driver's vehicle.

**Sec. 12-\_\_\_.7 Identification of transportation network company vehicles and drivers.**

The transportation network company's software application or website must display a picture of the transportation network company driver and the license plate number of the motor vehicle used for providing the prearranged ride before the rider enters the transportation network company driver's vehicle. Each transportation network company driver's vehicle must display on the lower corner of the passenger-side windshield the transportation network company's logo, name or other identifying symbol and the transportation network company driver's certificate number, which must be uniform in appearance for each vehicle used by any driver for that transportation network company. A vehicle may display the logo of more than one transportation network company.



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**Sec. 12-\_\_\_.8 Records.**

A transportation network company shall maintain the following records:

- (a) Individual prearranged ride records for at least five years from the date each trip was provided; and
- (b) Individual records of transportation network company drivers at least until the one-year anniversary of the date on which a transportation network company driver's business relationship with the transportation network company has ended.

**Sec. 12-\_\_\_.9 Prohibited acts.**

- (a) **Street Hails.** A transportation network company driver shall not solicit or accept street hails.
- (b) **Road Taxi Stands.** A transportation network company driver shall not solicit or accept riders at road taxi stands.
- (c) **Cash Trips.** The transportation network company shall adopt a policy prohibiting transportation network company drivers operating in the city from solicitation or acceptance of cash payments from riders and notify transportation network company drivers of the policy. Transportation network company drivers operating in the city shall not solicit or accept cash payments, either fares or tips, from riders. Any payment for prearranged rides must be made only electronically using the transportation network company's digital network or software application.
- (d) **Excess Hours.** A transportation network company driver shall not be available to provide prearranged rides for more than twelve hours out of any twenty-four-hour period. The maximum applies to the aggregate of all hours in which a driver is available to provide prearranged rides for any transportation network company.
- (e) **Surge Pricing.** The maximum surge pricing rate must not exceed two times the transportation network company's standard pricing rate. The transportation network company shall be prohibited from implementing surge pricing during times of natural disaster or a governmental declaration of a state of emergency.



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**Sec. 12-\_\_\_.10 Violation—Penalty.**

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,000.00 or imprisonment for a period not exceeding one year or to both such fine and imprisonment. Any transportation network company prearranging rides in the city must comply with the requirements of this article and, if in violation, may be enjoined from further operation in the city. For a transportation network company, any day of operation in the city in violation of this article is deemed a separate violation."



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SECTION 3. This ordinance takes effect January 1, 2017.

INTRODUCED BY:

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DATE OF INTRODUCTION:

**APR 14 2016**

\_\_\_\_\_  
Honolulu, Hawaii

\_\_\_\_\_  
Councilmembers

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
KIRK CALDWELL, Mayor  
City and County of Honolulu